

Remarks

By this Amendment, Applicant seeks to amend claims 1, 7, 8, 16, 17, 20, and 23. Claims 1, 7, 8, 14-18, and 20-23 are pending in the application. Claims 2-6, 9-13, and 19 have been withdrawn as the result of an earlier restriction requirement. Claim 24 is added containing subject matter previously contained in claim 1. No new matter is believed to be added.

In view of the Examiner's earlier restriction requirement, Applicant retains the right to present claims 2-6, 9-13, and 19 in a divisional application.

Rejections under 35 U.S.C. Section 103

The Examiner rejects at page 2 of the office action claims 1, 7, 8, 14, 18, 22, and 23 as being unpatentable over Michael Miller, "The Complete Idiot's guide to online auctions" (QUE 1999), (hereinafter "Miller"), in view of US Patent Application Publication US 2006/0074792 to Wagoner et al. (hereinafter "Wagoner"). Applicant respectfully disagrees for at least the following reasons.

Miller appears to set forth manual steps for registration, use of a credit card, and "*rapidly*," and "*seemingly instantaneously*" proxy bidding (see page 34 and 192) by a Buyer using an embedded bid automation system of a single auction hosting service, specifically "eBay's proxy bidding system" (see page 192).

Wagoner sets forth a continuous online auction system and method enabling auctioning of products including an auction center having a microprocessor connected to a storage medium and including a product receive module configured to execute in the auction center, and configured to receive a set of product data for a first product to be auctioned including one or more seller parameters, and a *seller proxy* module configured to modify one or more seller parameters for the product based upon one or more auction parameters. See Abstract.

Claim 1, as amended, sets forth an exemplary embodiment of Applicant's invention including, *inter alia*:

A method of automating an interaction between a bidder and an electronic, dynamic pricing online auction hosting service comprising:

- a. receiving a registration of a bidder at an online, computer-implemented, Internet-based, ***bidder-centric bidding automation application site***, wherein said bidder-centric bidding automation services application site is ***separate from any online auction hosting services site***, by creating logon credentials that are used to at least one of authenticate and/or authorize the bidder's use of services of the bidder-centric bidding automation services application site; and receiving at least one bid account including logon credentials of at least one online auction hosting services site of the bidder;
- b. receiving financial transaction instrument information of the bidder to fund said bidder-centric bidding automation services application site;
- c. receiving at least one auction and one of said at least one online auction hosting services sites associated with said at least one auction and storing said at least one auction in a bid portfolio of the bidder for acquiring data using at least one scan agent and/or at least one bid proxy;
- d. providing monitoring, by the at least one scan agent, of temporal progression of the at least one auction, and notifying the bidder and/or the at least one bid proxy of any changes affecting the bidder's programmed bid parameters of the at least one auction, wherein ***said monitoring by the at least one scan agent is performed at least close to time of auction closing***;
- e. enabling activating of the at least one bid proxy to ***programmatically bid*** on said at least one auction of said at least one online auction hosting services site by emulating the bidder's navigation and command input to said at least one auction hosting services site, the at least one bid proxy placing at least one bid, driven by said programmed bid parameters, until said at least one auction is either won or lost by the time of auction close of said at least one auction, wherein ***said bidding by the at least one bid proxy is performed as close as possible to the time of auction closing***, wherein said at least one scan agent determines whether or not a competitive bid has outbid a most recent bid of the bidder; and
- f. activating the at least one bid proxy to programmatically place at least one counter bid by the emulating of the navigation and the command input of the bidder for said at least one online auction hosting

services site, if said competitive bid is placed and detected before the time of auction closing of said at least one auction, wherein said at least one counter bid comprises computing and executing a valid higher bid for a forward auction or a lower bid for a reverse auction, that is within said programmed bid parameters, if said competitive bid has been made and accepted by the auction site that is higher for the forward auction or lower for the reverse auction than the most recent bid detected by the at least one scan agent.

Emphasis added.

Applicant respectfully notes that Miller and Wagoner, alone, or in combination, fail to teach or suggest at least an online *bidder-centric* bid automation services application site, which is *separate from* an auction hosting services site, monitoring temporal progression using at least one scan agent performed at least *close to time of auction closing*, and *programmatically bidding* by at least one bid proxy *as close as possible to the time of auction closing*, according to an exemplary embodiment of Applicant's claimed invention.

Applicant's claimed invention, according to an exemplary embodiment is "bidder-centric." Applicant in conceiving his invention, came to the realization that a bidder and an online auction hosting service have diametrically opposed business objectives which conventionally discouraged provision of a bidder focused automation tool. Applicant recognized that a bidder's objective is to minimize the price paid for an item in a forward auction (i.e., maximize in a reverse auction), while an online auction hosting service instead aims to maximize the price for a seller in a forward auction (i.e., minimize for a buyer in a reverse auction), to encourage the seller to sell products at auction on the online auction hosting service's site. Demonstrative of this seller-centric focus for forward auctions (buyer-centric for reverse) of an online auction hosting service's embedded proprietary proxy bid service is, e.g., the embedded eBay® forward auction proxy service described in Miller, that seeks to expose and to test any bidder's highest bid price against other pending, proxied bids from other buyers in a proxy queue. An exemplary embodiment of Applicant's invention, as set forth in claim 1, for example, provides for a method that minimizes the price to be paid by a bidder on a forward auction, at least in part, by placement of a bid as late as possible through the use of an automated bid proxy with knowledge of bid parameters, where the bid proxy service is separate from an online auction hosting service. Thus, by severing (at

least in its emphasis) the bid proxy from the online auction hosting service, an improved, bidder-centric, bid automation services system may be provided, according to an exemplary embodiment of Applicant's invention, seeking to make central a bidder's priorities. Wagoner, see Abstract, is focused on seller's tools, e.g., a "seller proxy module" configured to modify one or more seller parameters, not a bidder's tool or bidder-centric bid automation proxy as set forth in Applicant's claimed invention. Miller teaches a buyer how to use a manual bidding process for a buyer bidding in an English forward auction, and also explains how to use a proprietary, branded and embedded proxy service, i.e., an "eBay proxy bidding system" to create a bid "seemingly instantaneously," (which runs counter to a bidder-centric approach, which would not want to place an increased bid immediately so as to drive up a price of the desired auction item). Instead of a bidder-centric system, Miller contemplates a seller-centric bid automation system that is part of an auction hosting system eBay, that bids instantaneously, encouraging transparency of bids for the benefit of sellers and to the detriment of bidders. The embedded seller-centric bid automation system of Miller subjects a buyer's maximum price to a high level of testing from various increasing bids of more competitive buyers' bids, pushing up a price in a "bidding war" for the benefit of the seller in a forward auction, as compared to an exemplary embodiment of Applicant's invention. Unlike Miller, an exemplary embodiment of Applicant's invention, as set forth in claim 1, as amended, for example, is bidder-centric, that places programmatical bids as close as possible to the time of auction closing, minimizing a number of bids, attempting to avoid engaging in any "robot bidding war," as contemplated by Miller, see page 34. Thus, Applicant's system contemplates a bid automation system that overcomes the detriments of conventional seller-centric bid automation systems which aim to maximize a seller's auction sale price. Miller teaches away from such a bidder-centric system, instead describing an embedded buyer-centric proxy bidding process, entering a robot bidding war, or even dispensing entirely with the use of a bid automation system entirely, by "bidding manually" (see page 35). This teaching away is demonstrative of the nonobviousness of the claimed invention.

Further, Applicant's invention, as exemplified by claim 1, sets forth a bid automation system which is "separate from an online auction hosting system." As noted above, at best, Miller sets forth the eBay® proxy bidding system, an embedded bid automation services system, which is embedded as part of an online auction hosting service system, in the example described.

Applicant's claimed invention sets forth a bidding automation system, at least separate in its emphasis from an online auction hosting services provider's system.

Applicant's invention, as set forth, e.g., in claim 1, further distinguishes Miller and Wagoner, alone or in combination by monitoring the progression of the auction at least *close to time of auction closing*, and *programmatically bidding* by at least one bid proxy *as close as possible to the time of auction closing*. At best, Wagoner teaches or suggests delaying bidding by inserting a delay between bid times (it mentions at paragraph 40, bidding 10 minutes after a subsequent higher bid, or specifying bids be submitted 20 minutes before close). Applicant's claimed invention instead programmatically bids as close as possible to the time of auction closing, such as, e.g., seconds prior to close, so as to minimize a number of bids placed and to avoid providing transparency of its bid. Indeed, Applicant's specification discusses at length a time to auction close window (TACW), time till close (TTC), and rules for how late one may enter a bid, and seeks to place a bid, just before close of the auction. Exemplary embodiments of Applicant's invention take into account estimated network response time so as to attempt to place bids very close in time to auction close. In fact, Applicant's invention tracks the rules of an auction and knows the last time for which the rules permit a bid to be placed, and it attempts to place bids at such last time, so as to minimize the amount of increase in the bid.

Thus, Miller and Wagoner, alone or in combination, fail to teach or suggest all the elements of independent claim 1, as amended, and the claim is believed to be allowable. For at least the above reasons, independent claim 23 is also believed to be allowable. For at least the reasons noted above with respect to the independent claims 1 and 23, dependent claims 7, 8, 14-18, and 20-22, and new claim 24, are also believed to be allowable.

Further, Applicant respectfully notes with reference to claims 20 and 21 and their rejection over the above-discussed applied references, further in view of U.S. Patent 6,496,855 to Hunt (hereafter Hunt), that Hunt does not overcome the shortcomings of Miller and Wagoner, and does not appear to contemplate registrations for multiple auctions according to an exemplary embodiment of Applicant's claimed invention, but rather merely teaches or suggests an intermediary between a plurality of Internet web sites.

Further as to the rejection of claims 16 and 17 over the above-discussed applied references further in view of U.S. Patent 6,415,270 to Rackson (hereafter Rackson), Rackson at most contemplates a single online auction hosting services site that supports multiple-auction services for replicating an item to be auctioned and detecting bids in order to replicate an optimal bid. Rackson does not appear to overcome the shortcomings of Miller and Wagoner, and does not contemplate, teach or suggest persistent search agents, or the storing of auction preferences of a bidder, according to exemplary embodiments of the Applicant's claimed inventions and further, fails to teach or suggest all the elements of claims 16 and 17.

Further as to the rejection of claim 15 over the above-discussed applied references further in view of U.S. Patent 6,963,854 to Boyd (hereafter Boyd) and U.S. Patent 5,600,632 to Schulman (hereafter Schulman), Applicants respectfully note that it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to seek out four unrelated documents to allegedly arrive at Applicant's claimed invention, absent improper use of Applicant's specification in hindsight as a roadmap. Boyd relates to a target pricing system for competitive bid negotiated price proposal sales which applies regression analysis to identify statistical correlations between factors and market response curves. Boyd does not contemplate auctions, but rather relates to competitive bidding situations such as in the case of preparing and submitting written proposals for long term services contracts in response to a request for proposal (RFP), a different type of bid than an online auction bid. Schulman sets forth a telecommunications performance monitoring system for analyzing network performance of latency sensitive video content over an asynchronous transfer mode (ATM) switch, which has nothing to do with auctions and determining of timing of placement of bids dependent on response time considerations as contemplated by exemplary embodiments of Applicant's claimed inventions. Thus, Boyd and Schulman do not address the shortcomings of the above-applied references and further, fail to teach or suggest all the elements of claim 15. Hunt does not mention online auctions, even once.

Applicant believes no fees are due at this time outside of papers otherwise submitted with this document (including a two months petition of extension of time). However, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 22-0261.

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Respectfully submitted,

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